IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15971 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UDAY VIDEO CINEMA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 15971 of 2003

MR GM JOSHI for Petitioner No. 1

MS NANDINI JOSHI A.G.P. for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 28/10/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition challenged the impugned order dated 19th August, 2003 passed by respondent no. 2 at annexure-C to the

petition, whereby his license has been cancelled.

2. The short facts of the case as they emerge from the record of the petition are that the petitioner is running a video cinema known as Uday Video Cinema, since last two years. It is the case of the petitioner that on raid being carried out by Mamlatdar and the Police Sub-Inspector on 16th August, 2003, a letter was issued on the ground that as against licensed capacity of 75 seats, 135 seats were found.

2.1. The petitioner further submitted that based on the said letter, the District Magistrate vide order dated 19th August, 2003, without giving any opportunity of hearing, cancelled his license. The petitioner further submitted that in view of that he preferred an Appeal as well as interim injunction application on 8th September, 2003 before respondent no. 1, whereby he was informed to remain present on 13th October, 2003. It is the case of the petitioner that though he had made submissions by making written representations, the same were not considered by respondent no.1 and the appeal was rejected.

2.2. Being aggrieved by the order dated 19th August, 2003, the petitioner has no other alternative remedy but to approach this Court, by way of this petition.

3. The learned advocate for the petitioner contended that the order passed by the District Magistrate is in clear violation of principles of natural justice inasmuch as the petitioner was not issued notice and the said order was passed without affording him opportunity of hearing.

4. Heard the learned counsel for the respective parties. I find force, in the submission of learned advocate for the petitioner. Therefore, I am of the opinion that the petitioner is required to be given a chance of hearing. Accordingly, the impugned order is required to be quashed and set aside and the matter is required to be remanded to respondent authority for fresh decision.

5. In the premises aforesaid, on the facts and circumstances of the case, the impugned order passed by the District Magistrate at Annexure-C to the petition is quashed and set aside. The matter is remanded to respondent authority for deciding the same afresh after hearing the petitioner.

6. It is clarified that respondent authority shall hear and decide the matter without being influenced by the earlier order which is quashed in the present petition and also the present order passed in the present petition.

7. Rule is made absolute to the aforesaid extent.

[K.S. JHAVERI, J.]

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